

1  
2  
3  
4  
5  
6  
7  
IN THE UNITED STATES DISTRICT COURT

8  
9  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

10  
11 UNITED STATES OF AMERICA,

No. C 06-00556-2 CRB

12 Plaintiff,

**ORDER**

13 v.

14 STEPHANIE JENSEN,

15 Defendant.

16  
17 The parties have proposed jury instructions, which this Court intends to defer ruling  
18 upon until a later date. However, the government requests an immediate judgment on the  
19 defendant's proposed jury instruction defining "books, records, and accounts," as those terms  
20 are used in 15 U.S.C. § 78m(b)(2)(A). Because the Court's ruling on this instruction may  
21 impact opening statements and determine what evidence the government will need to adduce  
22 at trial, this Court grants the government's request to issue a ruling on the proposed  
23 instruction.

24 The defendant requests an instruction providing that:

25 A book, record or account is a document that was created or maintained to  
26 accurately and fairly reflect, in reasonable detail, the transaction and  
27 disposition of assets of a company for the purpose of making reports to the  
SEC. It does not include each and every document or record created in the  
normal course of business at a company and does not include documents that  
have no connection to the company's SEC reports.

28 This Court agrees with the government that the defendant's instruction would unduly limit  
the meaning of "books, records, and accounts" as used in § 78m.

1        This Court is amenable to providing an instruction on the meaning of "books, records,  
2 and accounts," but will exercise its "broad discretion," United States v. Hayes, 794 F.2d  
3 1348, 1351 (9th Cir. 1986), to formulate the wording of the instruction as follows:

4        A book, record or account is a document that was created or maintained to  
5 accurately and fairly reflect, in reasonable detail, the transactions and  
dispositions of the assets of the company.

6        **IT IS SO ORDERED.**

7  
8  
9        Dated: November 9, 2007



---

CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE